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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2010-135

11 **ROBERT WAYNE BAKER**
12 **26614 Brooks Circle**
Stevenson Ranch, CA 91381
13 **Registered Nurse License No. 565110**

A C C U S A T I O N

14 Respondent.

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16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about March 14, 2000, the Board of Registered Nursing ("Board") issued
22 Registered Nurse License Number 565110 to Robert Wayne Baker ("Respondent"). The
23 Registered Nurse License was in full force and effect at all times relevant to the charges brought
24 herein and will expire on December 31, 2009, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
28 indicated.

4. Section 2750 of Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • • •

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3."

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

BACKGROUND

8. On or about June 6, 2008, while an instructor for a Health Assessment Lab at the California State University, Northridge (“CSUN”), Respondent was teaching his students cardiovascular assessment. During the instruction, students E.Y.¹ and Y.R., were acting as lab partners to perform mock examinations. Specifically, the students were practicing finding and

¹ Names of students/clients will be omitted for purposes of privacy and will be disclosed upon a proper request for discovery.

1 taking an apical pulse, which may require an examiner to use the dorsal side of the hand, with
2 fingers closed, to shift a female's breast to perform a palpation.

3 a. While student Y.R. attempted examine student E.Y., Respondent stated that student
4 Y.R. was doing the examination incorrectly. At that time, while instructing the students,
5 Respondent "cupped" student E.Y.'s breast with his hand in a "cup" position (palm facing up),
6 and brushed his hand over her nipple several times with his fingers. Respondent also stated that
7 student E.Y. had the "perfect sized breast" to conduct the examination

8 b. Additionally, while student Y.R. initially acted as the mock patient for student E.Y.
9 Respondent indicated that the patient would not normally be wearing undergarments, such as a
10 bra, and urged student Y.R. to change from her bikini top into a gown where she could remove
11 her bra. Respondent stated that for the student's final examination, at they very least they would
12 have to wear gowns without undergarments.

13 c. Students reported that Respondent was "constantly looking at their breasts."

14 FIRST CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct)

16 9. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
17 in that Respondent committed unprofessional conduct during his instruction of students at CSUN
18 as follows:

19 a. Respondent inappropriately touched student E.Y. in a sexual nature, and made
20 inappropriate statements about student E.Y.'s breasts, as more fully discussed in paragraph 8,
21 above, which is herein incorporated by reference as set forth in whole.

22 b. Respondent inappropriately instructed students by requiring the students to be without
23 undergarments.

24 c. Respondent unprofessionally stared at the breasts of his students.

25 d. Respondent improperly instructed students to listen to the tricuspid valve over the
26 areola, when in fact, the tricuspid valve is auscultated and palpated at the 5th ICS, left sterna
27 border, and the areola is not an anatomical landmark of cardiovascular assessment.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Sexual Misconduct)

3 10. Respondent is subject to disciplinary action under Code sections 726 and 2761,
4 subdivision (a), in that Respondent committed unprofessional conduct and sexual misconduct
5 against student E.Y., as more fully discussed in paragraph 8, above, which is herein incorporated
6 by reference as set forth in whole.

7 THIRD CAUSE FOR DISCIPLINE

8 (Substantially Related Conviction)


9 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (f),
10 in that on or about September 25, 2008, in the case entitled, *The People of the State of California*
11 *vs. Robert Wayne Baker*, Case No. 8NW03807, in the Superior Court of California, County of
12 Los Angeles, Respondent was convicted of violating Penal Code section 243(E)(1) (battery
13 against former spouse/finance), a misdemeanor, an offense substantially related to the
14 qualifications, functions, and duties of a registered nurse .

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Revoking or suspending Registered Nurse License Number 565110, issued to Robert
19 Wayne Baker;
- 20 2. Ordering Robert Wayne Baker to pay the Board of Registered Nursing the reasonable
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions
22 Code section 125.3;
- 23 3. Taking such other and further action as deemed necessary and proper.
- 24

25 DATED: 8/28/09


26 LOUISE R. BAILEY, M.Ed., RN
27 Interim Executive Officer
28 Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant